

Before the Board of Zoning Adjustment, D. C.

Application No. 11932, of Robert Alexander, pursuant to Section 8207.1 of the Zoning Regulations, for a variance from the use provisions of the R-4 Zone, as provided by Section 8207.11 of the regulations, to permit a fast food service (franchise) at the premises 19th and East Capitol Streets, N. E., Lots 53, 54, 55, and 56, Square 1110.

HEARING DATE: May 21, 1975

DECISION DATE : May 27, 1975

FINDINGS OF FACT:

1. The applicant proposes to construct on the subject property, a fast food franchise of the "Burger King" type.

2. The subject property is presently unimproved, and has been for forty (40) years.

3. The neighborhood surrounding the subject property is characterized by R-4 type row-dwellings, non-conforming apartment dwellings, and institutional uses such as the D. C. Armory, D. C. Jail, R. F. K. Stadium, and Eastern High School.

4. The applicant asserted at public hearing that it would be economically infeasible to construct dwellings consistent with R-4 Zone standards of use.

5. The applicant also asserted at public hearing, that a study conducted, indicated that the cost of constructing one dwelling per lot would be approximately \$43,475.

6. The applicant stated at public hearing, that based upon approximated building costs, plus financing, utilities, and maintenance costs, **and** real estates taxes, that **no** profit could **be** made through residential development of the subject property.

7. The applicant further submitted, that if the four dwellings were rented, or sold, that the monthly rental fees or mortgage payments would exceed the earning capacity of the residents of the neighborhood wherein the subject property is located.

8. The Board finds that the applicant could legally sub-divided the existing four (4) lots in question, into five (5) standard R-4 lots.

9. The applicant did not conduct a cost analysis on the feasibility of developing the subject property with five row dwelling used as flats which can be accomplished as a matter of right, or five (5) row dwellings used as multiple dwellings which may be accomplished by way of special exception in the R-4 Zone.

10. The applicant did not demonstrate by example or feasibility study that all special exceptions which are permitted in the R-4 Zone are impractical or would not bring forth a reasonable return from the property as a result of such development.

11. The applicant stated, that the property surrounding the subject property is zoned commercially, however, the Board takes notice that the neighborhood is in fact a residential one with certain non-conforming uses.

12. The applicant stated at the hearing, and in his statement of facts, that he requested three bids for development of the subject property for row dwellings, however, the persons who furnished the figures and justifications for such cost analysis were not present to corroborate these figures, or is there in the record of this case any indication that such bids were actually made and responded to.

13. A real estate expert, testifying on behalf of the applicant testified that because of the costs of construction of either five (5) multiple dwellings or five (5) single family dwellings, development of the site is impractical, and that apartment dwellings would have to be rented at around \$225 to \$250 per month which is in direct competition with the lower cost dwelling units in the neighborhood, the expert further stated that he envisioned no residential solution to development of the property which would be profitable.

14. Both petitions in support and in opposition were filed in the record of this case, however, the Board gives little weight if any to such submission, because signatories to a petition are not subject to cross-examination.

15. The vice-principle of Eastern High School, a church minister, a resident manager of several apartment buildings in the area, and three (3) area residents testified in support of the above application, stating that the proposed use would be convient and beneficial to the neighborhood.

16. Juanita Hart, resident of 1817 A Street, S. E., which is located directly behind the subject property, stated at public hearing that increased traffic as a result of the proposed use, would disturb the tranquility of the neighborhood and be objectionable, and that the persons who testified in support do not live in the area and would not be affected.

17. Mrs. Brice, resident of 1812 A Street, S. E., testified that the proposed use would be detrimental to the neighborhood because of increased traffic, noise, and that the subject property would possibly become a hangout for students who attend Eastern High School. Mrs Brice further submitted, that the Board should deny the proposed commercial use because it is located in a exclusively residential zone.

18. The applicant asserted at public hearing, that because of the economic infeasibility of constructing R-4 dwellings on the subject property, and the location of the subject property (being near several non-conforming uses and D. C. Jail, Armory, R.F.K. Stadium, and a proposed metro station) he suffers from practical difficulties and a hardship to warrant the granting of a use variance.

19. The applicant stated at public hearing, that he purchased the subject property at a sales price of \$40,000.00 with full knowledge that he would need a variance to permit a fast food service on the **lots** in question.

CONCLUSION OF **LAW** AND OPINION:

Based upon the above Findings of Fact, and the Record, the Board is of the opinion that the applicant has not carried the

VOTE : 5-0

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BY ORDER OF THE D. C. BOARD OF ZONING ADJUSTMENT

ATTESTED By: James E. Miller
JAMES E. MILLER
Secretary to the Board

FINAL DATE OF ORDER: 7/11/75